1. Information Disclosure Statement

Examiner stated that document number 2001/000536 as listed in the IDS filed by Applicants on November 20, 2001 was not considered because the inventor and application number could not be found.

Applicants respectfully submit that the document's correct publication number is 2001/0000536 and the correct inventor's name is Stphen A. Tarin. Additionally, it appears that the patent application described in U.S. Pub. No. 2001/0000536 has issued as U.S. Pat. No. 6,513,041B2. An IDS listing both the corrected U.S. Publication information and the apparent corresponding issued patent is submitted herewith and Applicants respectfully request reconsideration of the document.

2. Priority

Examiner acknowledged Applicants' claim for domestic priority under 35 U.S.C. § 119 of an earlier filed provisional application. However, Examiner alleged the provisional application failed to provide adequate support under 35 U.S.C. § 112 to enable claims 1-24 of the current pending non-provisional utility application "simply because the non-provisional application provides further detail relative to the provisional . . . "

The mere fact that the non-provisional application provides further detail is not the test for enablement under 35. U.S.C. § 112. Accordingly, Applicants respectfully disagree with Examiner's priority assessment and hereby maintain the claim to priority to provisional patent application Serial No. 60/215,224 filed on June 30, 2000.

3. 35 U.S.C. §101

Examiner stated that claims 1-24 of the present application stand rejected under 35 U.S.C. §101 as being directed to an abstract mathematical idea. Applicant respectfully disagrees.

Any process, whether electronic, chemical, or mechanical in nature, necessarily involves an algorithm in the broad sense of the term. AT&T Corp. v. Excel Communications Inc., 50 U.S.P.Q. 2d 1447, 1450 (Fed. Cir. 1999), citing, State Street Bank & Trust Co. v. Signature Financial Group, 47 U.S.P.Q.2d 1596, 1602 (Fed. Cir. 1998). The proscription against patenting a "mathematical algorithm", to the extent that it still exists, is narrowly limited to claims directed toward mathematical algorithms in the abstract. Id. A process that applies an equation to a new and useful end is not barred by 35 U.S.C. §101. AT&T, 50 U.S.P.Q. 2d at 1451, citing, Diamond v. Diehr, 450 U.S. 175, 188 (1981). An unpatentable mathematical algorithm can be identified in that it is merely an abstract idea constituting a disembodied concept and thus not useful. AT&T, 50 U.S.P.Q. 2d at 1451 citing, State Street Bank, 47 U.S.P.Q. 2d at 1601. Thus, a claimed process satisfies the requirement of 35 U.S.C. §101 if it produces a useful, concrete and tangible result. Id. (emphasis added).

Process claims need not recite specific technology to satisfy the requirements of 35 U.S.C. §101 – as is suggested in the Office Action. State Street Bank, 47 U.S.P.Q.2d at 1601. Such a structural or technical limitation requirement probably stems from the now defunct Freeman-Walter-Able test. Id. at 1453. This test, in light of recent court rulings, has little or no applicability. Id.

Examiner cites "computation domain" as an example of an abstract mathematical idea. Applicants submit that in one embodiment , the element "computation domain" is illustrated in Fig. 1 and "comprises computers 120.1-120.8." (Pg. 12, lines 16-17). Clearly in this

embodiment, the computation domain is not an abstract mathematical idea. Additionally, this example of the term "computation domain" is merely one illustration of the term and is not meant to limit the term.

Furthermore, Examiner alleges that the specification defines "non-embarrassingly parallel function" as a mathematical algorithm on page 6, lines 4-10. Applicant respectfully disagrees. Rather, the text on page 6, lines 4-10 illustrates one example of process that is not embarrassingly parallel.

Applicants respectfully submit that independent claims 1, 9 and 17 recite statutory subject matter. Additionally, dependent claims 2-8, 10-16, and 18-24 include the above recitations of independent claims 1, 9, and 17 respectively, and include additional recitations which, when combined with the recitations of independent claims 1, 9 and 17 also recite statutory subject matter under 35 U.S.C. §101. Accordingly, Applicants respectfully request the withdrawal of Examiner's 101 rejection.

4. 35 U.S.C. § 102(a)

In the present Office Action, claims 1-24 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Hochberg et al. (hereinafter "Hochberg") ("Stimulant Inc" (December 2000)).

Section 102(a) of 35 U.S.C. provides:

> A person shall be entitled to a patent unless:
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Hochberg et al. appears to be an article that mentions and credits the true inventors, namely Tom Baehr-Jones and Michael Hochberg. Accordingly, Hochberg does not teach or suggest an invention of another, nor does Hochberg teach an invention before the Applicant's invention. As such, Hochbert et al. is not a proper 102(a) reference. Applicants' respectfully request Examiner to withdraw the 102(a) rejection for claims 1-24.

CONCLUSION

Applicants have made an earnest and bona fide effort to clarify the issues before the Examiner and to place this case in condition for allowance. Therefore, consideration and allowance of claims 1-24 is believed to be in order, and an early Notice of Allowance to this effect is respectfully requested. If the Examiner should have any questions concerning the foregoing, the Examiner is invited to telephone the undersigned attorney at (310) 712-8327.

Respectfully submitted,

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